

**Senate File 2298 - Reprinted**

SENATE FILE 2298  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO SSB 3078)

(As Amended and Passed by the Senate March 12, 2012)

**A BILL FOR**

1 An Act relating to direct care professionals including the  
2 establishment of a board of direct care professionals,  
3 providing for implementation, making penalties applicable,  
4 and including effective date provisions.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 152F.1 Definitions.

2 As used in this chapter, unless the context otherwise  
3 requires:

4 1. "*Board*" means the board of direct care professionals  
5 created under chapter 147.

6 2. "*Community living professional*" means a direct care  
7 associate who has completed advanced training and is certified  
8 to provide home and community living, instrumental activities  
9 of daily living, and personal support services.

10 3. "*Direct care associate*" means an individual who has  
11 completed core training and is certified to provide direct care  
12 services in the state.

13 4. "*Direct care instructor*" means an individual approved  
14 by the board to provide direct care instruction to direct care  
15 professionals.

16 5. "*Direct care professional*" means an individual who  
17 provides direct care services for compensation and is a direct  
18 care associate, a community living professional, a health  
19 support professional, or a personal support professional.

20 6. "*Direct care services*" means the services provided to  
21 individuals who are ill or individuals with disabilities as  
22 specified in the individual's service plan or in documented  
23 goals, including but not limited to home and community living  
24 services, instrumental activities of daily living services,  
25 personal activities of daily living services, personal support  
26 services, and health monitoring and maintenance services.

27 7. "*Direct care trainer*" means a direct care instructor who  
28 is approved by the board to train instructors.

29 8. "*Health monitoring and maintenance services*" means  
30 medically-oriented services that assist an individual in  
31 maintaining the individual's health including measuring intake  
32 and output; providing catheter and ostomy care; collecting  
33 specimens; checking vital signs, including temperature, pulse,  
34 respiration, and blood pressure; measuring height and weight;  
35 performing range of motion exercises; providing assistance with

1 urinary care; and application of thrombo embolic deterrent hose  
2 or hot and cold packs.

3 9. "*Health support professional*" means a direct care  
4 associate who has completed advanced training and is certified  
5 to provide personal activities of daily living and health  
6 monitoring and maintenance services or a direct care associate  
7 who has met the federal nurse aide requirements pursuant to 42  
8 C.F.R. § 483.152.

9 10. "*Home and community living services*" means services to  
10 enhance or maintain independence of individuals including such  
11 activities as helping individuals develop and meet personal  
12 goals, providing direct physical and emotional support and  
13 assistance for persons with disabilities, utilizing crisis  
14 intervention and positive behavior supports, and using and  
15 following individual support plans.

16 11. "*Instrumental activities of daily living services*" means  
17 services provided to assist individuals with daily living tasks  
18 to allow them to function independently in a home or community  
19 setting, including but not limited to assistance with managing  
20 money, transportation, light housekeeping, and shopping and  
21 cooking.

22 12. "*Personal activities of daily living services*" means  
23 services to assist individuals in meeting basic needs,  
24 including but not limited to bathing, back rubs, and skin care;  
25 grooming activities; assistance with dressing and undressing;  
26 assistance with eating and feeding; assistance with toileting;  
27 and assistance with mobility, including transfers, walking, and  
28 turning in bed.

29 13. "*Personal support professional*" means a direct care  
30 associate who has completed advanced training and is certified  
31 to provide instrumental activities of daily living, personal  
32 activities of daily living, and personal support services.

33 14. "*Personal support services*" means support services  
34 provided to an individual as the individual performs personal  
35 activities of daily living including but not limited to

1 coaching and prompting, and teaching skills and behaviors.

2 15. "*Service plan*" means a written, consumer-centered,  
3 outcome-based plan of services.

4 16. "*Specialty endorsement*" means an advanced level of  
5 certification based on requirements developed by experts in a  
6 particular discipline or professional area and approved by the  
7 board.

8 Sec. 2. NEW SECTION. 152F.2 **Certification required —**  
9 **exceptions — use of title.**

10 1. Unless otherwise exempt under section 152F.4, beginning  
11 January 1, 2014, an individual shall not provide direct care  
12 services in this state without being certified as a direct care  
13 associate.

14 2. An individual who is not certified pursuant to this  
15 chapter shall not use words or titles which imply or represent  
16 that the individual is certified as a direct care professional  
17 under this chapter.

18 3. A direct care associate shall not act as or represent  
19 that the individual is a direct care professional with advanced  
20 training certification or a specialty endorsement, unless the  
21 direct care associate is first certified at the appropriate  
22 level of certification under this chapter.

23 4. Notwithstanding any provision to the contrary, an  
24 individual who completes advanced training or meets the  
25 requirements for a specialty endorsement is not required to  
26 be certified at that level if the individual does not act as  
27 or represent that the individual is certified at that level.  
28 Section 147.83 does not apply to a direct care associate who  
29 is not certified as a direct care professional with advanced  
30 training certification or a specialty endorsement if the direct  
31 care associate does not act as or represent that the individual  
32 is certified at that level.

33 Sec. 3. NEW SECTION. 152F.3 **Requirements to obtain**  
34 **certification — renewal — continuing education — reciprocity.**

35 1. An applicant for certification as a direct care associate

1 shall present evidence satisfactory to the board that the  
2 applicant meets all of the following requirements:

3     *a.* The applicant has successfully completed the required  
4 education for the certification from a board-approved direct  
5 care instructor or direct care trainer.

6     *b.* The applicant has paid all fees required by the board.

7     *c.* The applicant certifies that the applicant will conduct  
8 all professional activities in accordance with standards for  
9 professional conduct established by the board.

10     2. An applicant for certification as a direct care  
11 professional with advanced training or a specialty endorsement  
12 shall present evidence satisfactory to the board that the  
13 applicant meets all of the following requirements:

14     *a.* The applicant has successfully completed the required  
15 education for the certification from a board-approved direct  
16 care instructor or direct care trainer.

17     *b.* The applicant has paid all fees required by the board.

18     *c.* The applicant has passed a state examination approved by  
19 the board.

20     *d.* The applicant certifies that the applicant will conduct  
21 all professional activities in accordance with standards for  
22 professional conduct established by the board.

23     3. An individual shall renew the individual's certification  
24 biennially. Prior to such renewal, the individual shall  
25 present evidence that the individual has satisfied continuing  
26 education requirements and shall pay a renewal fee as  
27 determined by the board.

28     4. The board shall issue the appropriate certification to an  
29 applicant who demonstrates experience in direct care services  
30 in another state and meets the requirements established by the  
31 board for the specific certification.

32     Sec. 4. NEW SECTION. 152F.4 **Scope of chapter.**

33     1. The provisions of this chapter do not apply to any of the  
34 following:

35     *a.* An individual who is providing direct care services

1 and is governed by a collective bargaining agreement in place  
2 before July 1, 2017, until the expiration of such agreement.

3     *b.* An individual providing direct care services to a family  
4 member.

5     *c.* An individual otherwise licensed who is operating within  
6 the scope of that license and who does not represent to the  
7 public that the individual is a direct care professional.

8     2. This chapter shall not be interpreted to preclude  
9 an individual who provides direct care services but is not  
10 otherwise required to be certified under this chapter from  
11 being certified under this chapter on a voluntary basis.

12     Sec. 5. NEW SECTION. 152F.5 **Duties of the board.**

13     The board shall do all of the following:

14     1. Adopt rules consistent with this chapter, chapter 147,  
15 chapter 272, and the recommendations of the direct care worker  
16 advisory council established pursuant to 2008 Iowa Acts,  
17 chapter 69, which are necessary for the performance of its  
18 duties.

19     2. Adopt rules to provide a transition process that allows  
20 individuals providing direct care services on or before January  
21 1, 2014, who are subject to the certification requirements  
22 of this chapter, to continue providing direct care services  
23 while completing certification under this chapter. The rules  
24 shall provide that certification requirements for an individual  
25 subject to the transition process are based on consideration  
26 of previous training, employment history, and experience. An  
27 individual subject to the transition process shall complete the  
28 requirements for direct care associate certification within a  
29 time frame determined by rule of the board.

30     3. Establish curriculum requirements for health support  
31 professionals. The curriculum requirements established shall  
32 not exceed the curriculum requirements specified for nurse  
33 aides pursuant to 42 C.F.R. § 483.152, without prior approval  
34 of sixty percent of the members of the board and prior approval  
35 of the department of inspections and appeals.

1 4. Require an individual to undergo criminal history  
2 and child and dependent adult abuse record checks prior  
3 to certification, and establish record checks requirements  
4 applicable to direct care professionals consistent with section  
5 135C.33.

6 5. Establish dependent adult abuse reporting and training  
7 requirements consistent with chapters 235B and 235E, as  
8 applicable.

9 6. Establish standards and guidelines for certification  
10 reciprocity.

11 7. Establish standards and guidelines for direct care  
12 professionals, including minimum curriculum requirements.

13 8. Prepare and conduct, or prescribe, an examination for  
14 applicants for certification.

15 9. Establish standards and guidelines for direct care  
16 instructors and direct care trainers, including minimum  
17 curriculum requirements and continuing education requirements.  
18 Training and continuing education guidelines shall provide  
19 diverse options for completion of the training and continuing  
20 education, as appropriate, including but not limited to online,  
21 employer-based, or educational institution-based opportunities.

22 10. Define educational activities which fulfill continuing  
23 education requirements for renewal of certification.

24 11. Establish guidelines for inactive certification status  
25 and inactive certification reentry.

26 **Sec. 6. NEW SECTION. 152F.6 Certification suspension and**  
27 **revocation.**

28 A certification issued by the board under this chapter may be  
29 suspended or revoked, or renewal of certification may be denied  
30 by the board, for violation of any provision of this chapter,  
31 section 147.55 or 272C.10, or rules adopted by the board.

32 **Sec. 7. Section 147.1, subsections 3 and 6, Code 2011, are**  
33 **amended to read as follows:**

34 3. "*Licensed*" or "*certified*", when applied to a physician  
35 and surgeon, podiatric physician, osteopathic physician and

1 surgeon, physician assistant, psychologist, chiropractor,  
2 nurse, dentist, dental hygienist, dental assistant,  
3 optometrist, speech pathologist, audiologist, pharmacist,  
4 physical therapist, physical therapist assistant, occupational  
5 therapist, occupational therapy assistant, respiratory care  
6 practitioner, practitioner of cosmetology arts and sciences,  
7 practitioner of barbering, funeral director, dietitian, marital  
8 and family therapist, mental health counselor, social worker,  
9 massage therapist, athletic trainer, acupuncturist, nursing  
10 home administrator, hearing aid dispenser, ~~or~~ sign language  
11 interpreter or transliterator, or direct care professional  
12 means a person licensed under this subtitle.

13 6. "*Profession*" means medicine and surgery, podiatry,  
14 osteopathic medicine and surgery, practice as a physician  
15 assistant, psychology, chiropractic, nursing, dentistry,  
16 dental hygiene, dental assisting, optometry, speech pathology,  
17 audiology, pharmacy, physical therapy, physical therapist  
18 assisting, occupational therapy, occupational therapy  
19 assisting, respiratory care, cosmetology arts and sciences,  
20 barbering, mortuary science, marital and family therapy, mental  
21 health counseling, social work, dietetics, massage therapy,  
22 athletic training, acupuncture, nursing home administration,  
23 hearing aid dispensing, ~~or~~ sign language interpreting or  
24 transliterating, or practice as a direct care professional.

25 Sec. 8. Section 147.2, subsection 1, Code 2011, is amended  
26 to read as follows:

27 1. A person shall not engage in the practice of medicine  
28 and surgery, podiatry, osteopathic medicine and surgery,  
29 psychology, chiropractic, physical therapy, physical therapist  
30 assisting, nursing, dentistry, dental hygiene, dental  
31 assisting, optometry, speech pathology, audiology, occupational  
32 therapy, occupational therapy assisting, respiratory care,  
33 pharmacy, cosmetology arts and sciences, barbering, social  
34 work, dietetics, marital and family therapy or mental health  
35 counseling, massage therapy, mortuary science, athletic

1 training, acupuncture, nursing home administration, hearing aid  
2 dispensing, or sign language interpreting or transliterating,  
3 or shall not practice as a physician assistant or as a direct  
4 care professional, unless the person has obtained a license for  
5 that purpose from the board for the profession.

6 Sec. 9. Section 147.13, Code 2011, is amended by adding the  
7 following new subsection:

8 NEW SUBSECTION. 24. For direct care professionals, the  
9 board of direct care professionals.

10 Sec. 10. Section 147.14, subsection 1, Code 2011, is amended  
11 by adding the following new paragraph:

12 NEW PARAGRAPH. x. For the board of direct care  
13 professionals, a total of eleven members, six of whom are  
14 direct care professionals who represent diverse settings and  
15 populations served, two members of the public, one registered  
16 nurse who serves as a direct care instructor, one human  
17 services professional who serves as a direct care instructor,  
18 and one licensed nursing home administrator.

19 Sec. 11. Section 147.74, Code 2011, is amended by adding the  
20 following new subsection:

21 NEW SUBSECTION. 24. A direct care professional certified  
22 under chapter 152F and this chapter may use the following:

23 a. A direct care professional certified as a direct care  
24 associate may use the title "direct care associate" or the  
25 letters "D.C.A." after the person's name.

26 b. A direct care professional certified as a community  
27 living professional may use the title "community living  
28 professional" or the letters "C.L.P." after the person's name.

29 c. A direct care professional certified as a personal  
30 support professional may use the title "personal support  
31 professional" or the letters "P.S.P." after the person's name.

32 d. A direct care professional certified as a health support  
33 professional may use the title "health support professional" or  
34 the letters "H.S.P." after the person's name.

35 e. A direct care professional certified with a specialty

1 endorsement may use the title or letters determined by the  
2 specialty endorsement entity and approved by the board of  
3 direct care professionals.

4 *f.* A direct care professional who complies with federal  
5 nurse aide requirements pursuant to 42 C.F.R. § 483.152 may use  
6 the title "certified nursing assistant" or the letters "C.N.A."  
7 after the person's name.

8 Sec. 12. Section 272C.1, subsection 6, Code 2011, is amended  
9 by adding the following new paragraph:

10 NEW PARAGRAPH. *ag.* The board of direct care professionals,  
11 created pursuant to chapter 147.

12 Sec. 13. TRANSITION PROVISIONS.

13 1. An individual providing direct care services on or  
14 before January 1, 2014, who is subject to the certification  
15 requirements of this Act, may continue providing direct care  
16 services while completing certification as required under this  
17 Act. The board of direct care professionals shall adopt rules  
18 to provide that certification requirements for an individual  
19 subject to the transition process are based on consideration  
20 of previous training, employment history, and experience, and  
21 require such individuals to complete the requirements for  
22 direct care associate certification within the time frame  
23 determined by rule of the board.

24 2. An individual who is registered on or before January  
25 1, 2014, on the Iowa direct care worker registry established  
26 by the department of inspections and appeals, is deemed to  
27 meet the certification requirements for a health support  
28 professional under this Act.

29 3. Notwithstanding sections 147.14 and 147.16, for the  
30 initial board of direct care professionals, the governor may  
31 appoint, subject to confirmation by the senate, in lieu of the  
32 five members required to be direct care professionals and the  
33 two members required to be direct care instructors, members  
34 with experience and expertise that is substantially equivalent  
35 to the professional requirements for a direct care professional

1 or direct care instructor, as applicable.

2 Sec. 14. IMPLEMENTATION. The provisions of this Act shall  
3 be implemented as follows:

4 1. The sections of this Act relating to the board of direct  
5 care professionals including sections 152F.1 and 152F.5, as  
6 enacted in this Act; sections 147.13, 147.14, and 272C.1,  
7 as amended in this Act, and as specified in the transition  
8 provisions; and the section of this Act providing transition  
9 provisions relating to the board shall be implemented so that a  
10 board of direct care professionals is appointed no later than  
11 December 15, 2012.

12 2. The sections of this Act relating to requirements for  
13 certification of direct care professionals including sections  
14 152F.2, 152F.3, 152F.4, and 152F.6, as enacted in this Act;  
15 and sections 147.1, 147.2, and 147.74, as amended in this Act,  
16 shall be implemented so that the requirements are applicable  
17 beginning no later than January 1, 2014.

18 Sec. 15. FUNDING PROVISIONS.

19 1. The department of public health shall limit the indirect  
20 service charge for the board of direct care professionals to  
21 not more than fifteen percent.

22 2. It is the intent of the general assembly that the board  
23 of direct care professionals be self-sustaining by January 1,  
24 2017.

25 Sec. 16. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
26 of immediate importance, takes effect upon enactment.